

AMENDED IN SENATE JUNE 19, 2008

AMENDED IN SENATE MAY 20, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 3000

Introduced by Assembly Member Wolk
(Principal coauthor: Assembly Member Berg)
(Coauthor: Assembly Member Huffman)
(Coauthor: Senator Kuehl)

February 22, 2008

An act to amend Sections 4780, 4782, 4783, 4784, and 4785 of, to amend the heading of Part 4 (commencing with Section 4780) of Division 4.7 of, and to add Sections 4781.2-~~and 4781.4~~, 4781.4, and 4781.5 to, the Probate Code, relating to health care decisions.

LEGISLATIVE COUNSEL'S DIGEST

AB 3000, as amended, Wolk. Health care decisions: life-sustaining treatment.

Existing law defines a “request to forgo resuscitative measures” as a written document, signed by an individual, or a legally recognized surrogate health care decisionmaker, and a physician, that directs a health care provider to forgo resuscitative measures for the individual. Existing law provides that a health care provider who honors a request to forgo resuscitative measures is not subject to criminal prosecution, civil liability, discipline for unprofessional conduct, administrative sanction, or any other sanction, as a result of his or her reliance on the request, provided that he or she meets certain requirements.

This bill would redefine a request to forgo resuscitative measures as a “request regarding resuscitative measures,” which would be a written

document, signed by an individual, or a legally recognized health care decisionmaker, and a physician, that directs a health care provider regarding resuscitative measures. The bill would include within this definition a Physician Orders for Life Sustaining Treatment form, as specified. *The bill would authorize a legally recognized health care decisionmaker to execute the Physician Orders for Life Sustaining Treatment form only if the individual lacks capacity, or the individual has designated that the decisionmaker’s authority is effective, and would require a health care provider to explain the form, as specified.* The bill would require a health care provider to treat an individual in accordance with a Physician Orders for Life Sustaining Treatment form, except as specified, and would permit a physician to conduct an evaluation of the individual and issue a new order consistent with the most current information available about the individual’s health status and goals of care. *The bill would require the legally recognized health care decisionmaker of an individual without capacity to consult with the individual’s treating physician prior to making a request to modify that individual’s Physician Orders for Life Sustaining Treatment form, and would provide that an individual with capacity may at any time request alternative treatment to that treatment that was ordered on the form.* The bill would provide that if the orders in a patient’s request regarding resuscitative measures directly conflict with the patient’s individual health care instruction, the most recent order or instruction is effective. The bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The heading of Part 4 (commencing with Section
- 2 4780) of Division 4.7 of the Probate Code is amended to read:
- 3
- 4 PART 4. REQUEST REGARDING RESUSCITATIVE
- 5 MEASURES
- 6
- 7 SEC. 2. Section 4780 of the Probate Code is amended to read:
- 8 4780. (a) As used in this part:
- 9 (1) “Request regarding resuscitative measures” means a written
- 10 document, signed by (A) an individual, or a legally recognized
- 11 health care decisionmaker, and (B) a physician, that directs a health

1 care provider regarding resuscitative measures. *A request regarding*
2 *resuscitative measures is not an advanced health care directive.*

3 (2) “Request regarding resuscitative measures” includes *one,*
4 *or both of,* the following:

5 (A) ~~a~~A prehospital “do not resuscitate” form as developed by
6 the Emergency Medical Services Authority or other substantially
7 similar form.

8 (B) ~~a~~A Physician Orders for Life Sustaining Treatment form,
9 as approved by the Emergency Medical Services Authority. ~~A~~
10 ~~request regarding resuscitative measures is not an advance health~~
11 ~~care directive.~~

12 (3) “Physician Orders for Life Sustaining Treatment” *Treatment*
13 *form*” means a request regarding resuscitative measures that directs
14 a health care provider regarding *resuscitative and* life-sustaining
15 measures.

16 (b) *A legally recognized health care decisionmaker may execute*
17 *the Physician Orders for Life Sustaining Treatment form only if*
18 *the individual lacks capacity, or the individual has designated that*
19 *the decisionmaker’s authority is effective pursuant to Section 4682.*

20 (c) *The Physician Orders for Life Sustaining Treatment form*
21 *and medical intervention and procedures offered by the form shall*
22 *be explained by a health care provider, as defined in Section 4621.*
23 *The form shall be completed by a health care provider based on*
24 *patient preferences and medical indications, and signed by a*
25 *physician.*

26 ~~(b)~~

27 (d) A request regarding resuscitative measures may also be
28 evidenced by a medallion engraved with the words “do not
29 resuscitate” or the letters “DNR,” a patient identification number,
30 and a 24-hour toll-free telephone number, issued by a person
31 pursuant to an agreement with the Emergency Medical Services
32 Authority.

33 SEC. 3. Section 4781.2 is added to the Probate Code, to read:

34 4781.2. (a) A health care provider shall treat an individual in
35 accordance with a Physician Orders for Life Sustaining Treatment:
36 ~~A physician may conduct an evaluation of the individual and issue~~
37 ~~a new order consistent with the most current information available~~
38 ~~about the individual’s health status and goals of care.~~ *form.*

39 (b) Subdivision (a) does not apply if the ~~order~~ *Physician Orders*
40 *for Life Sustaining Treatment form* requires medically ineffective

1 health care or health care contrary to generally accepted health
 2 care standards applicable to the health care provider or institution.

3 *(c) A physician may conduct an evaluation of the individual*
 4 *and, if possible, in consultation with the individual, or the*
 5 *individual’s legally recognized health care decisionmaker, issue*
 6 *a new order consistent with the most current information available*
 7 *about the individual’s health status and goals of care.*

8 *(d) The legally recognized health care decisionmaker of an*
 9 *individual without capacity shall consult with the individual’s*
 10 *treating physician prior to making a request to modify that*
 11 *individual’s Physician Orders for Life Sustaining Treatment form.*

12 *(e) An individual with capacity may, at any time, request*
 13 *alternative treatment to that treatment that was ordered on the*
 14 *form.*

15 SEC. 4. Section 4781.4 is added to the Probate Code, to read:

16 4781.4. If the orders in a patient’s request regarding
 17 resuscitative measures directly conflict with the patient’s individual
 18 health care instruction, *as defined in Section 4623*, then, to the
 19 extent of the conflict, the most recent order or instruction is
 20 effective.

21 SEC. 5. Section 4781.5 is added to the Probate Code, to read:

22 4781.5. *The legally recognized health care decisionmaker shall*
 23 *make health care decisions pursuant to this part in accordance*
 24 *with Sections 4684 and 4714.*

25 ~~SEC. 5.~~

26 SEC. 6. Section 4782 of the Probate Code is amended to read:

27 4782. A health care provider who honors a request regarding
 28 resuscitative measures is not subject to criminal prosecution, civil
 29 liability, discipline for unprofessional conduct, administrative
 30 sanction, or any other sanction, as a result of his or her reliance
 31 on the request, if the health care provider (a) believes in good faith
 32 that the action or decision is consistent with this part, and (b) has
 33 no knowledge that the action or decision would be inconsistent
 34 with a health care decision that the individual signing the request
 35 would have made on his or her own behalf under like
 36 circumstances.

37 ~~SEC. 6.~~

38 SEC. 7. Section 4783 of the Probate Code is amended to read:

39 4783. (a) Forms for requests regarding resuscitative measures
 40 printed after January 1, 1995, shall contain the following:

1 “By signing this form, the ~~surrogate~~ *legally recognized health care*
2 *decisionmaker* acknowledges that this request regarding
3 resuscitative measures is consistent with the known desires of, and
4 with the best interest of, the individual who is the subject of the
5 form.”

6 (b) A ~~substantially similar printed form~~ *printed form*
7 *substantially similar to that described in subparagraph (A) of*
8 *paragraph (2) of subdivision (a) of Section 4780* is valid and
9 enforceable if all of the following conditions are met:

10 (1) The form is signed by the individual, or the individual’s
11 legally recognized health care decisionmaker, and a physician.

12 (2) The form directs health care providers regarding resuscitative
13 measures.

14 (3) The form contains all other information required by this
15 section.

16 ~~SEC. 7.~~

17 *SEC. 8.* Section 4784 of the Probate Code is amended to read:

18 4784. In the absence of knowledge to the contrary, a health
19 care provider may presume that a request regarding resuscitative
20 measures is valid and unrevoked.

21 ~~SEC. 8.~~

22 *SEC. 9.* Section 4785 of the Probate Code is amended to read:

23 4785. This part applies regardless of whether the individual
24 executing a request regarding resuscitative measures is within or
25 outside a hospital or other health care institution.